

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
Civil Action No. 5:99CV189-V

FILED
STATESVILLE, N.C.
2000 FEB -9 PM 2:48
U.S. DISTRICT COURT
W. DIST. OF N.C.

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
)
CITY OF NEWTON,)
NORTH CAROLINA,)
)
Defendant.)
_____)

MOTION TO INTERVENE
(Memorandum Incorporated)

Pursuant to Rule 24(a) of the Federal Rules of Civil Procedure, Donald R. Stokely, by counsel, moves this Court for an order allowing his intervention in this action as a plaintiff; Stokely so moves on the following grounds:

1. Donald R. Stokely, a nonparty, seeks to intervene and acquire full party status in the above styled ongoing action. FRCP 24; *Alvarado v. J.C. Penney Co.*, 997 F.2d 803, 805 (10th Cir. 1993).
2. Donald R. Stokely is a former employee of the City of Newton, North Carolina, who filed a charge of discrimination with the Equal Employment Opportunity Commission (hereinafter "EEOC") following his discharge from the City of Newton, alleging discrimination on the basis of race;
3. The above styled action was instituted by the United States of America, by and through the Equal Employment Opportunity Commission, following an investigation of the charge filed by Stokely and the determination of a probable cause;
4. Intervention as a matter of right is available under FRCP 24 (a) to Stokely, an employee whose civil rights are the subject of the instant action filed by the EEOC; 42 U.S.C. § 2000-

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5(f);

5. Stokely further seeks an order from this Court allowing him to intervene in this action with full party status for the following reasons:
- a. in order to adequately protect his rights in this case;
 - b. His intervention will not prejudice existing parties, the Plaintiff United States of America seeks to enforce the civil rights of Stokely, and Defendant City of Newton has notice of Stokely's complaint;
 - c. Stokely's intervention occurs will not delay the proceedings; the complaint in this matter was filed on December 8, 1999; Defendant City of Newton's Answer was filed on December 30th, 1999; a draft report of the initial conference of counsel for the United States of America and the City of Newton, North Carolina was prepared on or about January 11, 2000;
 - d. Stokely seeks intervention early in the litigation; his participation will contribute to the efficacy of the enforcement of the laws of the United States of America; *Alaniz v. Gillie Lewis Foods*, 572 F.2d 657 (9th Cir. 1978).
6. WHEREFORE, Donald R. Stokely moves this Court for an order allowing him to intervene in this action and to acquire full status as a plaintiff in this action based on the above cited authorities and facts which support Stokely's intervention as a matter of right.

Respectfully submitted, this the 1st day of February, 2000.

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By: 

Phyllis A. Palmieri
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CERTIFICATE OF SERVICE

I, Phyllis A. Palmieri, hereby certify that copy of the foregoing Motion to Intervene, attached documents, and Proposed Order were served by first class mail, postage prepaid, on counsel of record for the parties:

Charlotte Burrows
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U S Department of Justice
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Paul C. Lawrence
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This the 7th day of February, 2000.

BY:


Phyllis A. Palmieri

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION

FILED
ASHEVILLE, N. C.

DEC 8 1999

U.S. DISTRICT COURT
W. DIST. OF N. C.

UNITED STATES OF AMERICA,

Plaintiff,

v.

CITY OF NEWTON, NORTH CAROLINA,

Defendant.

Civil Action No. *5:99CV189-V*

COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff, United States of America, alleges:

1. This action is brought on behalf of the United States to enforce the provisions of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. Section 2000e, et seq. ("Title VII").

2. This Court has jurisdiction over the action under 42 U.S.C. Section 2000e-5(f) and 28 U.S.C. Section 1345.

3. Defendant Newton, North Carolina (hereinafter referred to as "Newton" or "the City") is a political subdivision of the State of North Carolina created pursuant to North Carolina law.

4. Defendant Newton is a person within the meaning of 42 U.S.C. Section 2000e(a), and an employer within the meaning of 42 U.S.C. Section 2000e(b).

5. Defendant Newton has discriminated against Donald Stokley, a white male formerly employed as a sanitation worker in the City's Department of Public Works and Utilities, because of

his race, white, and his association with a black person, in violation of Section 703(a) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. Section 2000e-2(a), among other ways, by:

- a. subjecting Mr. Stokley to racial harassment while he was employed in the City's Department of Public Works and Utilities on the basis of his race and his association with a black person;
- b. discharging Mr. Stokley from his employment as a sanitation worker on the basis of his race and his association with a black person; and
- c. failing or refusing to take appropriate action to remedy the effects of the discrimination against Mr. Stokley.

6. The Equal Employment Opportunity Commission ("EEOC") received a timely charge filed by Mr. Stokley (Charge No. 140-97-1556) in which he alleged that Newton discriminated against him on the basis of his race and his association with a black person by subjecting him to racial harassment and then terminating him from his position as a sanitation worker.

7. Pursuant to Section 706 of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. Section 2000e-5, the EEOC investigated the charge, found reasonable cause to believe that Mr. Stokley's allegations of discrimination were true, unsuccessfully attempted to achieve through conciliation a

voluntary resolution of these matters, and subsequently referred the charge to the Department of Justice.

8. All conditions precedent to the filing of suit have been performed or have occurred.

WHEREFORE, plaintiff United States prays that this Court grant the following relief:

(a) Enjoin the City and its directors, officers, agents, employees, successors, and all persons in active concert or participation with the City, as appropriate, from failing or refusing to:

- (i) provide sufficient remedial relief to make whole Donald Stokley for the loss he has suffered as a result of the discrimination against him as alleged in this complaint;
- (ii) adopt a clear, meaningful, and well-publicized written policy prohibiting racial harassment against any City employee; and
- (iii) take other appropriate nondiscriminatory measures to overcome the effects of the discrimination.

(b) Award compensatory damages to Donald Stokley for mental and/or physical injuries incurred as a result of the discrimination against him as alleged in this complaint, pursuant to and within the statutory limitations of Section 102 of the Civil Rights Act of 1991, 42 U.S.C. Section 1981a.

The plaintiff prays for such additional relief as justice may require, together with its costs and disbursements in this action.

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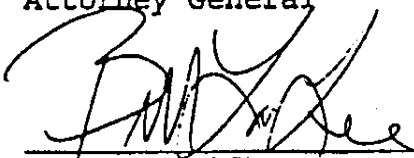
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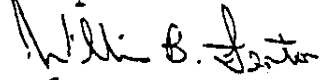

JURY DEMAND

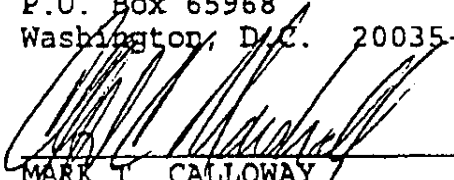
The United States hereby demands a trial by jury of all issues so triable pursuant to Rule 38 of the Federal Rules of Civil Procedure and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. Section 1981a.

JANET RENO
Attorney General

By:


BILL LANN LEE
Acting Assistant Attorney General
Civil Rights Division
U.S. Department of Justice



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Pages: 6, including this cover sheet

From: Debbie @ Kip Marshall's Office

Subject: USA v. City of Newton

COMMENTS:

Per your request, following is the complaint as filed today. Your copies will be overnighted to you today.

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